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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/827,282

04/20/2004

Buddha D. Paul

AFIP03-58 2

2639

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7590

10/19/2007

OFFICE OF THE STAFF JUDGE ADVOCATE
U.S. ARMY MEDICAL RESEARCH AND MATERIEL COMMAND
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EXAMINER

AKRAM, IMRAN

ART UNIT

PAPER NUMBER

1797

MAIL DATE

DELIVERY MODE

10/19/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/827,282	PAUL, BUDDHA D.	
	Examiner	Art Unit	
	Imran Akram	1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☒ Claim(s) 28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: <u>7/28/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-9, 11, and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anne (US 2002/0160439 A1) in view of Paul ("Effects of Oxidizing Adulterants...").

4. Regarding claims 1-4, 6, 11, 16, and 17, Anne discloses a method of detecting oxidants of a urine sample comprising: adding a chromogenic compound to said urine sample and detecting the presence or absence of a chromogenic reaction product (paragraph 9); determining a concentration of said chromogenic reaction product (Table 1); determining if said concentration signifies adulteration of said urine sample (paragraph 30). Anne does not disclose the addition of a source of ferrous ions to a urine sample. The applicant, in a paper jointly written with Aaron Jacobs, discloses a

Art Unit: 1797

method of detecting adulteration of a urine sample using a ferrous ammonium sulfate (page 462, right column). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use chromogenic compounds to measure the reduction of the ferrous ions to ferric ions. Paul discloses ferrous ions as an indicator for the presence of oxidants and chromogenic compounds are a well-known method to measure concentrations of both oxidizing and reducing agents. Providing a color effect to test for the oxidants of Paul is obvious. All the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded and predictable results to one of ordinary skill in the art at the time of the invention.

5. Regarding claim 5, Anne discloses chromates and nitrites (paragraph 4) and hydrogen peroxide (paragraph 9). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the other oxidants of claim 4 not explicitly mentioned because they are all known oxidants.

6. Regarding claim 7, Anne discloses the method of claim 6 wherein said chromogenic compound is 2,2'-Azino-bis(3-ethylbenzthiazoline-6-sulfonic acid), and wherein said chromogenic reaction product is a chromogenic oxidation product (paragraph 9).

7. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use N,N-Dimethylphenylenediamine, and 2-Amino-p-cresol, as

Art Unit: 1797

well, since they perform the same function as 2,2'-Azino-bis(3-ethylbenzthiazoline-6-sulfonic acid).

8. Regarding claims 8, 9, and 18, Anne discloses the concentration reaction product being detected visually and spectrophotometrically (paragraph 30).

9. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anne (US 2002/0160439 A1) and Paul ("Effects of Oxidizing Adulterants...") as applied to claim 4 above, and further in view of Kightlinger (US 4,558,100).

10. Neither Anne nor Paul discloses the use of ferrous ammonium sulfate with hydrochloric acid in the presence of vanadium. Kightlinger, however, discloses and initiator system for ferrous ions that consists of an vanadium (column 2, lines 44-50), ferrous ammonium sulfate (column 2, lines 50-52), and hydrochloric acid (see examples 1 and 3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the known method of Kightlinger to produce ferrous ions for the experiment of Anne and Paul. Kightlinger discloses that vanadium is a suitable promoter for the reaction between ferrous ammonium sulfate and hydrochloric acid.

11. Claims 12-15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anne (US 2002/0160439 A1) and Paul ("Effects of Oxidizing Adulterants...") as applied to claim 11 above, and further in view of Banerjee ("Urinary Hydrogen Peroxide...").

12. Regarding claim 12, Neither Anne nor Paul disclose the use of Xylenol orange, 8-Hydroxy-7-iodo-5-quinoline-sulfonic acid, or 4,5-Dihydroxy-1,3-benzene-di-sulfonic acid as a chromogenic compound to produce a chromogenic complex. Banerjee, however, discloses the use of oxidizing "ferrous ions to ferric ions which then bound with xylenol

Art Unit: 1797

orange present in the reagent to form a colored complex" (see page 207, first paragraph). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use xlenol orange—or any analogous compound such as those claimed in claim 12—to detect how much iron is reduced to form a color change. Xylenol orange is a well-known, suitable chromogenic compound for the purpose of Ann and Paul. The claim would have been obvious because the substitution of one known element for another would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

13. Regarding claims 13 and 14, Anne discloses the concentration reaction product being detected visually and spectrophotometrically (paragraph 30).

14. Regarding claim 15, Paul discloses the source of ferrous ions in excess (see Table 1).

15. Claims 19-21 and 23-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anne (US 2002/0160439 A1) in view of Paul ("Effects of Oxidizing Adulterants...").

16. Regarding claims 19 and 20, Anne discloses a method of detecting adulteration of a urine sample comprising: adding a chromogenic compound to said urine sample and detecting the presence or absence of a chromogenic reaction product (paragraph 9); determining a concentration of said chromogenic reaction product (Table 1); determining if said concentration signifies adulteration of said urine sample (paragraph 30). Anne does not disclose the addition of a source of ferrous ions to a urine sample. The applicant, in a paper jointly written with Aaron Jacobs, discloses a method of

Art Unit: 1797

detecting adulteration of a urine sample using a ferrous ammonium sulfate (page 462, right column). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use chromogenic compounds to measure the reduction of the ferrous ions to ferric ions. Paul discloses ferrous ions as an indicator for the presence of oxidants and chromogenic compounds are a well-known method to measure concentrations of both oxidizing and reducing agents. Providing a color effect to test for the oxidants of Paul is obvious. All the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded and predictable results to one of ordinary skill in the art at the time of the invention.

17. Regarding claim 21, Anne discloses the method of claim 19 wherein said chromogenic compound is 2,2'-Azino-bis(3-ethylbenzthiazoline-6-sulfonic acid), and wherein said chromogenic reaction product is a chromogenic oxidation product (paragraph 9).

18. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use N,N-Dimethylphenylenediamine, and 2-Amino-p-cresol, as well, since they perform the same function as 2,2'-Azino-bis(3-ethylbenzthiazoline-6-sulfonic acid).

19. Regarding claims 23 and 24, Anne discloses the concentration reaction product being detected visually and spectrophotometrically (paragraph 30).

Art Unit: 1797

20. Regarding claims 25-27, both Anne and Paul disclose control urine oxidation groups to compare concentrations with (see Table 1 of Anne and Results and Discussion of Paul). The units for measurement were not milliequivalents per liter of oxidants, however. It would have been obvious to one having ordinary skill in the art at the time the invention was made to convert the units of Anne or Paul to those desired as the difference is simply a conversion factor well known to one skilled in the art.

21. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anne (US 2002/0160439 A1) and Paul ("Effects of Oxidizing Adulterants...") as applied to claim 19 above, and further in view of Banerjee ("Urinary Hydrogen Peroxide...").

22. Neither Anne nor Paul disclose the use of Xylenol orange, 8-Hydroxy-7-iodo-5-quinoline-sulfonic acid, or 4,5-Dihydroxy-1,3-benzene-di-sulfonic acid as a chromogenic compound to produce a chromogenic complex. Banerjee, however, discloses the use of oxidizing "ferrous ions to ferric ions which then bound with xylenol orange present in the reagent to form a colored complex" (see page 207, first paragraph). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use xylenol orange—or any analogous compound such as those claimed in claim 22—to detect how much iron is reduced to form a color change. Xylenol orange is a well-known, suitable chromogenic compound for the purpose of Ann and Paul. The claim would have been obvious because the substitution of one known element for another would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

Allowable Subject Matter

23. Claim 28 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

24. The limitation of 29 meq/L of oxidant concentration is not found or suggested in the prior art.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Imran Akram whose telephone number is 571-270-3241. The examiner can normally be reached on 9-5 Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Walter Griffin can be reached on 571-272-1447. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1797

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

IA


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SUPERVISORY PATENT EXAMINER